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March 17, 2004

RECEIVED

MAR 17 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, N.W.  
Washington, DC 20554

**Re: Amendment of Section 73.202(b)  
FM Table of Allotments  
FM Broadcast Stations  
(Morganfield and Corydon, Kentucky)**

Dear Ms. Dortch:

Transmitted herewith on behalf of Union County Broadcasting Co., Inc. is an original and four (4) copies of its Petition for Rulemaking seeking the commencement of a rulemaking proceeding to amend the FM table of allotments.

Should any questions arise concerning this matter, please contact this office.

Respectfully submitted,

  
Howard J. Barr

Enclosures

No. of Copies rec'd 044  
List ABCDE

fm-MB  
04-50

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

MAR 17 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In Re: Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 04-  
Table of Allotments, ) RM-  
FM Broadcast Stations. )  
 )  
(Morganfield and Corydon, Kentucky) )

To: The Chief, Audio Division

**PETITION FOR RULEMAKING**

Union County Broadcasting Co., Inc. ("Union"), pursuant to Sections 1.401(a) and 1.420 of the Commission's rules, by counsel, hereby respectfully requests that Section 73.202(b) of the Commission's rules (the FM Table of Allotments) be amended as follows:

<b><u>Community</u></b>	<b><u>Existing</u></b>	<b><u>Proposed</u></b>
Morganfield, KY	237A	-----
Corydon, KY	-----	237C3 <sup>1</sup>

Concurrent with this relief, Union further requests that the license of station WMSK-FM, Morganfield, Kentucky be modified to specify operation on Channel 237C3 with a community of license of Corydon, Kentucky as its first local aural transmission service rather than Morganfield.

The following is shown in support thereof:

1. As shown in the attached Technical Report, this allotment may be made in compliance with the Commission's current separation and allocation requirements and that the proposed allocation is mutually exclusive with the existing licensed WMSK-FM facility.<sup>2</sup> The

<sup>1</sup> The proposed reference coordinates for Channel 237C3 at Corydon, Kentucky are 37° 41' 31" North Latitude, 87° 48' 45" West Longitude, with a site restriction approximately 11.1 kilometers SW. See Exhibit No. 1 (Technical Report of Charles M. Anderson).

<sup>2</sup> Exhibit One, Technical Report of Charles M. Anderson.

Technical Report further demonstrates that the reallocation proposed herein would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990).

2. The proposed change for WMSK-FM will result in an upgrade from Class A to Class C3 service. As demonstrated in the Technical Report, the proposed Channel 237C3 allocation at Corydon will provide 60 dBu service to a population of 162,549 within a 4,803 square kilometer area representing a gain of 2,287 square kilometers (+91%) and 132,373 in population (+438%). The Technical Report also demonstrates there will be no loss area with respect to the licensed WMSK-FM Channel 237A facility at Morganfield.<sup>3</sup> The proposed allocation site will provide a 70 dBu service to all of Corydon

3. Corydon, Kentucky is a community for allotment purposes. Corydon is an incorporated place with a population of 744 persons (2000 U.S. Census). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 100 (1982) (requirement of an allotment to a community is generally satisfied if the community is either incorporated or listed in the U.S. Census). Additionally, Corydon is self governing with its own mayor and six member city council. Services are administered by a city attorney, a town clerk, and a public works clerk. Corydon also has a volunteer civil defense-fire department and its own post office and zip code (42406).

4. Numerous organizations and businesses are located in Corydon, a number of which incorporate "Corydon" in their names. *See Kenansville, Florida*, 10 FCC Rcd 9831

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<sup>3</sup> Union currently holds a construction permit (File No BPH-20010926AAD) to upgrade WMSK-FM to Class C3 status at Morganfield. Union submits that this proposal is properly considered without reference to that unbuilt permit. *See Glencoe and Le Sueur, Minnesota*, 7 FCC Rcd 7651 (1992) ("... we do not consider removal [of a construction permit] from a community to represent the same concerns with loss of service that removal of an operating station would represent)." *See also Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bagdad and Chino Valley, Arizona)*, 11 FCC Rcd 14459 (1996) ("Station KAKP(FM) is unbuilt. Therefore, we do not consider its removal from Bagdad to present the parallel concerns with loss of service represented by the removal of an operating station, as it does not constitute a service that the public has become reliant upon").

(1995) (existence of a number of organizations incorporating the community's name is indicative of community status). For example, there are eleven churches in the city, including Corydon Holiness Church, Corydon General Baptist, Corydon Christian Church, Corydon Missionary Baptist Church and Faithway Baptist Church, St. Paul Baptist Church. Corydon business establishments include: Corydon Market and Deli, The Pantry, Corydon Car Wash, Rick's Auto, Cindy's Movies and More, Custom Creations, Pea Ridge Trash, Stone's Upholstery, Stone's Used Cars, Poor Boys Tree Service, Totally Tan, A1 Septic, Action Realty, Brann Septic Service, Chappel's Appliances, Brantley's Pest Control, A and S Services, Herron's Auction and Realty, Caldwell Banker, Don Welsh Paint and Repair, Waste Management Services, Reduction Services, and Wanda's Beauty Salon.

5. WMSK-FM will provide this independent, thriving and growing community with an important outlet for local information and a means to further stimulate local economic growth.

6. Substitution of Corydon for Morganfield as WMSK-FM's community of license will result in a preferential arrangement of allotments, pursuant to *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982); *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989). The substitution would provide Corydon, Kentucky with its first local aural transmission service (fulfilling the Commission's third priority for FM allocations), while Morganfield will continue to receive local service from WMSK(AM) Facility ID No. 68808, of which Union is also the licensee. The proposed change will not deprive Morganfield (2000 Census population; 1,581) of its only local transmission service. The community will continue to be served by WMSK(AM), Facility ID No. 68808, of which Union is also the licensee.

7. In sum, the reallocation proposed herein will result in a first local service for Corydon and a significant increase in the area and population to be served by WMSK-FM. On the other hand, Morganfield will retain its existing service from WMSK(AM). Furthermore, as discussed previously the allotment can be made without the creation of a loss area. Accordingly, we

respectfully submit that the allotment proposed herein will serve the public interest and should be implemented.

8. Union certifies that it has a present intention to apply for the new channel when allotted, and when authorized will modify the facilities promptly and commence operation on Channel 237C3 at Corydon, Kentucky.

WHEREFORE, for the foregoing reasons, Union County Broadcasting Co., Inc. respectfully requests that the Commission commence a rule making proceeding to reallocate Channel 237A from Morganfield to Corydon, Kentucky and to modify the license of WMSK-FM to specify operation on Channel 237C3 at Corydon, Kentucky.

Respectfully submitted,

**UNION COUNTY BROADCASTING CO., INC.**

By: 

John F. Garziglia  
Howard J. Barr  
Its Attorneys

**Womble Carlyle Sandridge & Rice, PLLC**

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Seventh Floor  
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March 17, 2004

## Exhibit One

# Charles M. Anderson and Associates

Broadcast Consultants  
1519 Euclid Avenue  
Bowling Green, KY 42103

Phone 270-782-0246  
Fax 270-793-9129  
Cell 270-535-4432

## **TECHNICAL REPORT**

This technical report has been developed in support of a petition for rulemaking seeking the reallocation of channel 237A from Morganfield, KY to Corydon, KY on 237C3 as a first local service. Morganfield will continue to be served by AM station WMSK on 1550 kHz. The proposed changes are:

<b>Community</b>	<b>Existing</b>	<b>Proposed</b>	<b>Coordinates</b>
<b>Morganfield, KY</b>	<b>237A</b>	<b>-----</b>	
<b>Corydon, KY</b>	<b>-----</b>	<b>237C3</b>	<b>N 37-41-31 W 87-48-45 (11.1 km southwest)</b>

### **I. Allocation Analyses:**

The allocation of WMSK-FM to Corydon, KY as a first local service is proposed at coordinates:

**N 37-41-31 W 87-48-45 (11.1 southwest of Corydon).**

An allocation study is included as Exhibit E-1 demonstrating that the proposed allotment reference point meets all applicable Commission separation requirements, and that the proposed allocation is entirely mutually exclusive with the existing WMSK-FM licensed facility. Exhibit E-1A demonstrates that there is a substantial area within which 237C3 may be allocated to Corydon.

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Exhibit E-2 demonstrates that line of sight to Corydon may be obtained from the proposed allocation point. Exhibit E-3 shows that a full facility Class C3 70 dBu will encompass the entire community of Corydon.

### **II. Population:**

The proposed 237C3 allocation and upgrade for WMSK-FM will provide a 60 dBu service of 4,803 sq km and a population of 162,549. This represents a gain of 2,287 sq km in area (+91%) and 132,373 in population (+438%).

A plot of the 60 dBu gain area is provided as Exhibit E-4. E-4 demonstrates that there will be no loss area with respect to the licensed WMSK-FM 237A facility. All allocation exhibits were prepared using V-Soft's FMCONT, PROBE III and the 30 second NGDC terrain database.

### **III. Conclusion:**

It is concluded that the reallocation of WMSK-FM to Corydon, KY as a Class C3 allocation will provide a first local service, and an increase in area (+2,287/+91%) and population (+132,373/+438%) served. The proposal is in full compliance with the Commission's allocation rules and policies.



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Charles M. Anderson 03-12-2004  
[cmanderson43@yahoo.com](mailto:cmanderson43@yahoo.com)

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## E-1 CORYDON, KY 237C3

REFERENCE  
37 41 31 N  
87 48 45 W

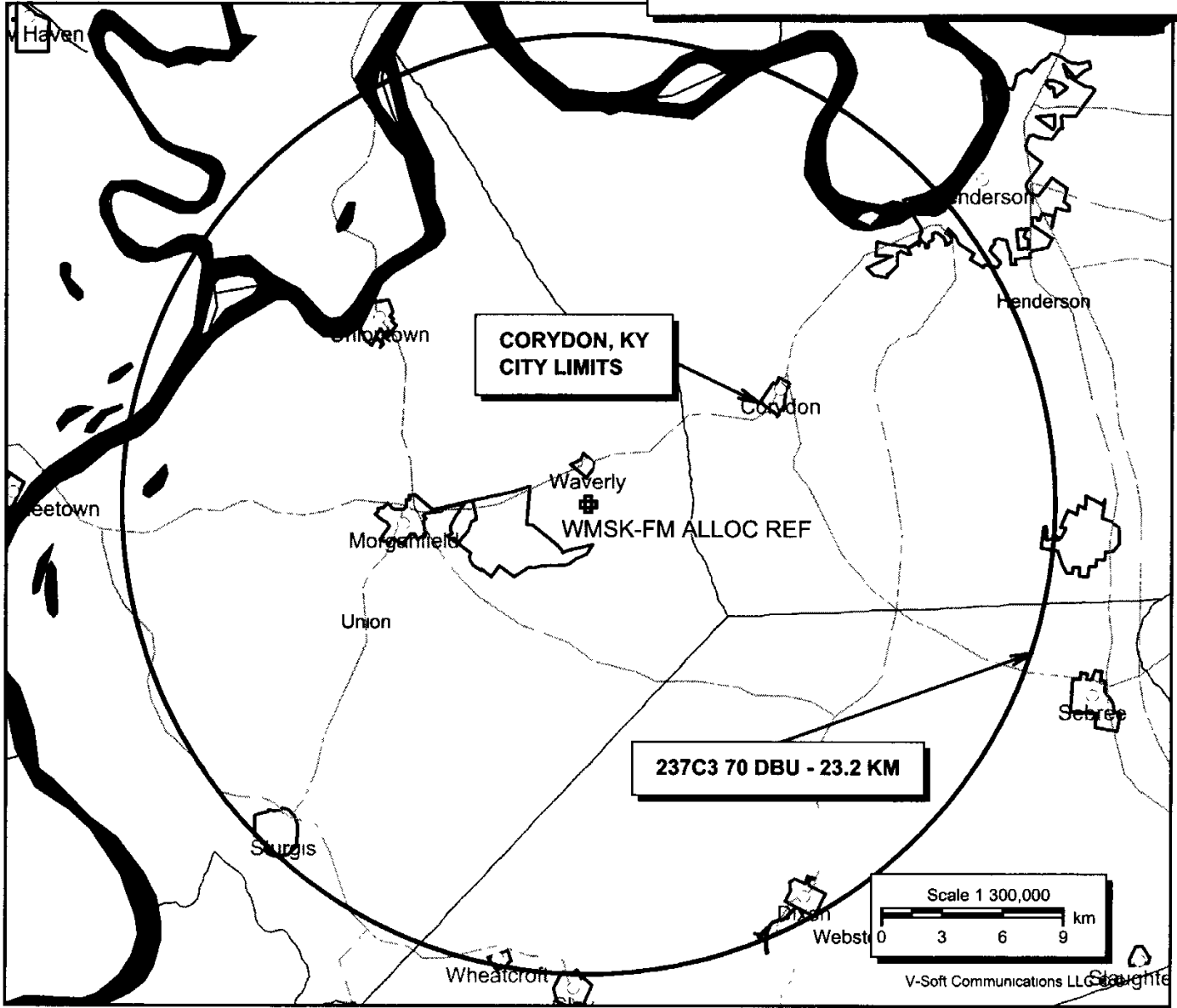
CLASS = C3  
Current Spacings  
Channel 237 - 95.3 MHz

DISPLAY DATES  
DATA 03-11-04  
SEARCH 03-11-04

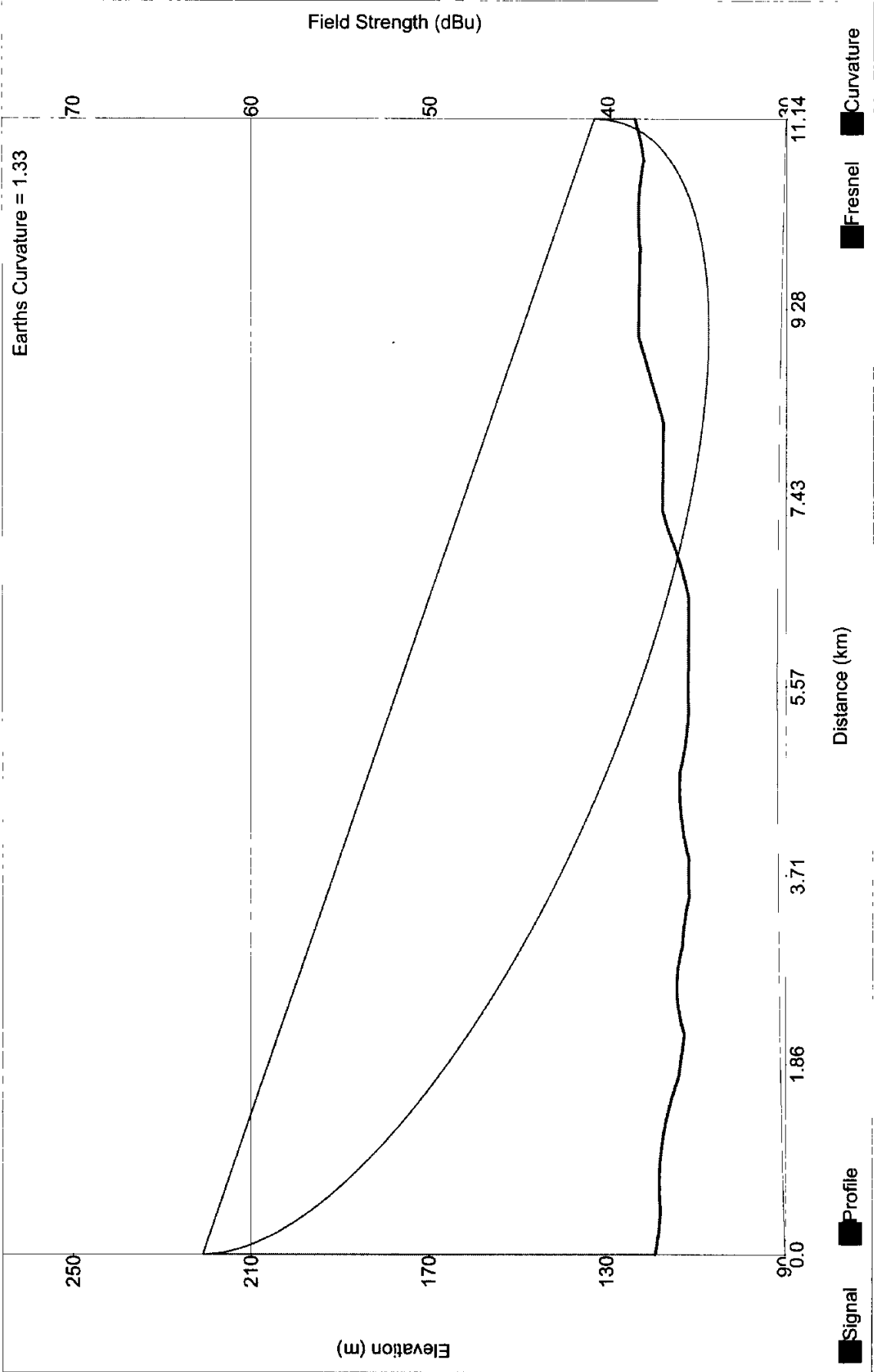
Call	Channel	Location	Dist	Azi	FCC	Margin
WMSKFM	CP -N 237C3	Morganfield	KY 10.54	254.6	153.0	-142.46
WMSKFM	APP-Z 237C3	Morganfield	KY 19.13	60.2	153.0	-133.87
WMSKFM	LIC 237A	Morganfield	KY 10.54	254.6	142.0	-131.46
WRXX	LIC-N 237A	Centralia	IL 142.03	313.4	142.0	0.03
RADD	ADD 236C0	Bowling Green	KY 167.95	120.6	163.0	4.95
RDEL	DEL 236C0	Glasgow	KY 167.95	120.6	163.0	4.95
WGGC	LIC 236C0	Glasgow	KY 167.95	120.6	163.0	4.95
WYNG	LIC 235B	Mount Carmel	IL 78.52	1.5	71.0	7.52
WUMEFM	LIC 237A	Paoli	IN 150.18	50.6	142.0	8.18
WUEZ	LIC 236B1	Carterville	IL 127.42	272.1	114.0	13.42
WSM-FM	LIC 238C	Nashville	TN 191.70	153.7	176.0	15.70
WNDIFM	LIC 237A	Sullivan	IN 158.85	11.5	142.0	16.85
WDKS	LIC 291A	Newburgh	IN 32.16	47.3	12.0	20.16
WBIO	LIC 234A	Philpot	KY 72.44	89.3	42.0	30.44
WCCK	LIC-N 239A	Calvert City	KY 78.96	209.5	42.0	36.96
WLLE	LIC-N 234C2	Mayfield	KY 126.66	215.9	56.0	70.66
WOKZ	LIC 290A	Fairfield	IL 88.62	329.7	12.0	76.62
WCDZ.C	CP -N 236C3	Dresden	TN 175.81	205.8	99.0	76.81
WCDZ	LIC 236A	Dresden	TN 175.81	205.8	89.0	86.81
WDQNFm	LIC 240A	Duquoin	IL 131.31	287.2	42.0	89.31
WGKY	LIC 240A	Wickliffe	KY 132.18	231.0	42.0	90.18
WDZQ	LIC 236B	Decatur	IL 241.58	333.3	145.0	96.58
KJEZ	LIC 238C1	Poplar Bluff	MO 242.27	247.9	144.0	98.27
WCRC	LIC 239B	Effingham	IL 170.20	337.7	71.0	99.20
WQMF	LIC 239B	Jeffersonville	IN 172.37	72.7	71.0	101.37
WIKI	LIC 237A	Carrollton	KY 246.77	63.1	142.0	104.77
WTBG	LIC 237A	Brownsville	TN 264.30	209.3	142.0	122.30
WVNI	LIC-N 236A	Nashville	IN 211.82	35.7	89.0	122.82
WFMS	LIC 238B	Indianapolis	IN 278.99	33.7	145.0	133.99
WFIAFM	LIC-N 234A	New Albany	IN 180.01	67.9	42.0	138.01

E-2  
WMSK-FM ALLOC REF  
Latitude. 37-41-31 N  
Longitude 087-48-45 W

CHARLES M. ANDERSON AND ASSOCIATES



E-3 237C3 TO CORYDON LINE OF SIGHT



Starting Latitude: 37-41-31 N      End Latitude: 37-44-38.25 N      Distance: 11.14 km  
Starting Longitude: 087-48-45 W      End Longitude: 087-42-15.96 W      Bearing: 58.76 deg  
Transmitter Height (AG) = 101.7 m      Transmitter Elevation = 119.1 m      Frequency = 95.3 MHz  
Receiver Height (AG) = 9.1 m      Receiver Elevation = 123.9 m      Fresnel Zone: 0.6

## E4

WMSK-FM ALLOC REF

**Latitude. 37-41-31 N**

Longitude 087-48-45 W

**WMSK-FM 237C3**

## ALLOCATION 60 DBU

**AREA = 4,803 SQ KM**

(+2,287/+91%)

**POP = 162,549**

(+132,373/+438%)

**WMSK-FM 237A  
LICENSED 60 DBU**

**WMSKFM**  
Union

SK-FM ALLOC REF

